

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CHARLES E. SMITH, JR.,
Petitioner,

v.

DONALD KELCHNER, ET AL.,
Respondents.

:
:
:
:
:
:
:

CIVIL ACTION

NO. 08-1181

ORDER

AND NOW, this ____ day of September, 2008, upon careful and independent consideration of the Petition for Writ of Habeas Corpus, and the Government's Response, the other documents filed by the parties, and after review of the Report and Recommendation of United States Magistrate Arnold C. Rapoport, **IT IS HEREBY ORDERED and DECREED** that:

1. The Report and Recommendation is **APPROVED and ADOPTED**, and
2. The habeas petition is **DISMISSED** without an evidentiary hearing and no certificate of appealability shall be issued.

IT IS FURTHER ORDERED that the Clerk of the Court shall mark the above-captioned case **CLOSED**.

BY THE COURT:

/s/ Petrese B. Tucker

Honorable Petrese B. Tucker, U.S.D.J.